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LOK SABHA

The following Bills were introduced in Lok Sabha on the 28th November, 1974:—

BILL No. 79 OF 1974

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

- | | |
|---|---------------------------|
| 1. This Act may be called the Constitution (Amendment) Act, 1974. | Short title. |
| 2. In article 269 of the Constitution, after clause (3), the following clause shall be inserted, namely:— | Amendment of article 269. |
| <p>“(4) If any such duty of tax as referred to in this article is not levied and collected by the Government of India, the reasons for not doing so shall be given to the Finance Commission and the Commission shall recommend payment to the States of such amounts of moneys in compensation as would have been received by the States, if such duty or tax had been levied.”.</p> | |
| 3. In article 280 of the Constitution, in sub-clause (a) of clause (3), after the word “them”, the words “as well as the suitable amounts of moneys in compensation which is to be due to the States in lieu of certain duties and taxes” shall be inserted. | Amendment of article 280. |

STATEMENT OF OBJECTS AND REASONS

1. Article 269 of the Constitution provides that certain duties and taxes shall be levied and collected by the Government of India but shall be assigned to the States. Even though this article is mandatory on the part of the Union, only few duties and taxes are currently levied, thereby the States are denied a fair revenue that is constitutionally due to them.

2. These duties and taxes are really sources of State revenue and the States have been rightly complaining to the Finance Commissions that the Union is not very enthusiastic about the exploitation of these levies because the Union does not derive any benefit from them. This testifies that the Union is shy of tapping certain resources on behalf of the States.

3. This Bill seeks to protect the rights and revenues of the States by making it obligatory for the Finance Commission to assign suitable amount of money in compensation to each State if any or all of those duties and taxes mentioned in article 269 are not levied by the Government of India. Moreover the public also may come to know about the reasons why any or all of those duties and taxes are not levied because according to the provision in the Bill the Government of India have to state the reasons to the Finance Commission.

MADRAS;

MURASOLI MARAN.

The 11th July, 1974.

BILL NO. 76 OF 1974

A Bill further to amend the Constitution of India.

Enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1974.

Short title.

2. In article 270 of the Constitution,—

Amend-
ment of
Article
270.

(a) in clause (2), the words “or to taxes payable in respect of Union emoluments,” shall be omitted;

(b) in clause (4), in sub-clause (a), for the words, “does not include”, the word “includes” shall be substituted.

3. Article 271 of the Constitution shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Article 270 of the Constitution provides for the distribution of taxes on income, excluding corporation tax, between the Union and the States. But by a change brought about in the Income-tax Act of 1961, the income-tax paid by the companies has been classified as corporation tax and is thus excluded from the pool of income-tax hitherto available for distribution to the States. This unilateral action taken by the Union Government has deprived the States of their legitimate share out of the proceeds from income-tax on companies to which they had hitherto a constitutional entitlement. States have been agitating for a long time for the division of the proceeds from the corporation tax between the Union and the States. This Bill seeks to achieve that object.

2. In determining the fund to be distributed between the Union and the States, proceeds of the tax on Union emoluments (including pensions) are excluded. This kind of distinction between Union emoluments and others for the only purpose of divisible pool is anomalous. In fact this provision is literally copied from the Government of India Act, 1935 created by and for our then colonial masters. This Bill seeks to put an end to that anomaly.

3. Article 271 provides that increase of the duties or taxes in the name of a surcharge shall not be distributed among the Union and the States. As things stand now, a mere terminological change can prevent the division of the receipts from a particular source between the Union and the States, or can make purely Central revenue a divisible one. This Bill seeks to avoid that extremely tenuous distinction with a view to widen the base of devolution to the States as it is necessary to meet their expanding requirements.

NEW DELHI;

MURASOLI MARAN.

The 10th March, 1974.

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND 274
OF THE CONSTITUTION OF INDIA

Copy of letter No. F.4(5)-FCC(IMP)/74, dated the 2nd July, 1974 from Shri K. R. Ganesh, Minister of State in the Ministry of Finance to the Secretary-General, Lok Sabha.]

The President having been informed of the subject matter of the Constitution (Amendment) Bill, 1974 (*Amendment of article 270 and omission of article 271*) sought to be introduced by Shri Murasoli Maran, M.P. recommends under articles 117(1) and 274(1) of the Constitution of India, the introduction of the said Bill in the Lok Sabha.

Be it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1974.

Short title
and com-
mence-
ment.

(2) It shall come into force at once.

2. In the Seventh Schedule to the Constitution,—

Amend-
ment of
Seventh
Schedule.

(a) in List I, in entry 56, the words “to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest” shall be omitted;

(b) entry 17 of List II shall be omitted;

(c) in List III, after entry 47, the following entry shall be inserted, namely:—

“48. Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power subject to the provisions of entry 56 of List I.”

STATEMENT OF OBJECTS AND REASONS

The regulation of river water has become a matter of serious controversy amongst the various States of the Union in the recent years. As a result, the immediate execution of a number of important irrigation projects are being delayed indefinitely. The warring states never solve the disputes amicably, rather take the help of courts to decide their own share of the river water.

While the nation is badly in need of using the water of the rivers for irrigation purposes to have more production of foodgrains in the country to feed the people, it is hardly necessary to emphasise the importance of solving all these disputes for the benefits of the country and the nation as a whole by an amendment of the Constitution.

In fact the water of the rivers is a gift of nature. So, it is quite appropriate that it should belong to the nation and our country as a whole instead of limiting the jurisdiction of the rivers to any particular State or States of the country.

Hence this Bill.

NEW DELHI;
The 25th July, 1974.

ARJUN SETHI.

BILL NO. 94 OF 1974

A Bill to declare the sports and games federations and associations as institutions of national importance and to provide for the establishment of a Board for the taking over of their management in the interest of promoting the sports and games and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Sports and Games federations and Associations (Taking over of Management) Act, 1974.

Short title
and com-
mence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Declara-
tion as in-
stitution
of national
import-
ance.

2. It is hereby declared that the sports and games federations and associations are institutions of national importance.

Definitions.

3. In this Act, unless the context otherwise requires,—

(a) "Board" means the Sports and Games Board established under section 5;

(b) "Chairman" means the Chairman of the Board;

(c) "Fund" means the Sports and Games Fund referred to in section 10;

(d) "member" means a member of the Board and includes the Chairman, the Vice-Chairman and the Secretary.

CHAPTER II

THE SPORTS AND GAMES BOARD

Manage-
ment of
sports and
games fe-
deration
to vest in
the Board.

4. The management of all the sports and games federations and associations shall be deemed to have vested on the date of commencement of this Act in the Board to be constituted under section 5 of this Act.

Establish-
ment and
incorpora-
tion of the
Board.

5. (1) With effect from such date as the Central Government may, by notification in the Official Gazette appoint, there shall be established for the purposes of this Act a Board to be known as the Sports and Games Board.

(2) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract, and shall by the said name sue and be sued.

Composi-
tion of the
Board and
terms of
members.

6. (1) The Board shall consist of the following persons, namely:—

(a) the Union Minister of Education and Social Welfare as the *ex-officio* Chairman of the Board;

(b) the Ministers of all the States of the Union holding sports and games portfolio as the *ex-officio* members of the Board from amongst whom, a Vice-Chairman shall be nominated by the Central Government;

(c) one Secretary and not less than five and not more than seven other members having expert knowledge in sports and games in the opinion of the Central Government to be appointed by that Government.

(2) The members shall hold office during the pleasure of the Central Government.

Assign-
ment of
functions
to whole-
time mem-
bers.

7. Such of the members of the Board as may be appointed by the Central Government as whole-time members may be placed in charge of such functions of the Board as may be assigned to them by the Government.

8. The Secretary of the Board and every other person appointed as a whole time-member of the Board shall be entitled to such salary and allowances as may be prescribed by the Central Government.

Salary and allowances of members.

9. (1) The Board shall undertake the management of all the sports and games federations and associations in India.

Functions and duties of the Board.

(2) It shall be the duty of the Board to promote, by such measures as it thinks fit, the development of sports and games in the country.

CHAPTER III

FINANCE AND ACCOUNTS

10. There shall be constituted a Fund to be called the Sports and Games Fund and there shall be credited to the Fund such sums of money that may be paid to the Board by the Central Government, in each financial year, after due appropriation made by Parliament by law in this behalf, by way of grants or loans for carrying out the functions of the Board.

Constitution of Fund and grants by Central Government.

11. The Board shall, by such date in each financial year as may be specified by the Central Government, submit to it for approval a budget for the next financial year in the form specified by the Government, showing therein the estimated receipts and expenditure, and the sums which would be required from the Central Government during the financial year.

Board to submit Budget annually.

12. The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the balance sheet in such form as may be specified in accordance with such general directions as may be issued by the Central Government in consultation with the Comptroller and Auditor General of India.

Board to maintain Accounts.

CHAPTER IV

MISCELLANEOUS

13. In the discharge of its functions under this Act, the Board shall be bound by such directions on questions of policy as the Central Government may give to it from time to time.

Directions by Central Government.

14. The Board may, by general or special order in writing, direct that all or any of the powers or duties, which may be exercised or discharged by it, may, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised or discharged also by any member, officer or employee of the Board as may be specified in this behalf in the order.

Delegation of powers and duties.

15. Every officer or employee of the Board shall, when acting or purporting to act in pursuance of the provisions of this Act or of any rule or regulation made thereunder, be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Officers and employees of the Board to be public servants.

Protection
of action
taken
under the
Act.

16. No suit, prosecution or other legal proceedings shall lie against the Board or any member, officer or other employee of the Board for anything which is in good faith done or intended to be done under this Act or any rule or regulation made thereunder.

Power
of the
Central
Govern-
ment to
make
rules.

17. The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act:

Provided that when the Board has been established, no such rules shall be made without consulting the Board.

Laying of
rules
before
Parlia-
ment.

18. Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Powers of
the Board
to make
regula-
tions.

19. The Board may, with the previous approval of the Central Government, make regulations not inconsistent with the provisions of this Act and the rules made thereunder with regard to the discharge of its functions under this Act.

Act to
have over-
riding
effect.

20. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of such other law.

STATEMENT OF OBJECTS AND REASONS

The sports and games are important ingredients for the all round development of a human being and a nation as well. Any country which is advanced in this field is considered to be most advanced nation of the world today because physical strength gives a man zest for work in every walk of life.

But today we find our nation is most backward in this field. In addition, the officers who are in-charge of development of sports and games are found to be busy in personal quarrels for enhancement of their personal prestige rather than the all round development of sports and games.

Since Government have no power directly to deal with recalcitrant officers of the sports federations and associations, the officers hoodwink the Government in the matter.

It is, therefore, necessary in the interest of promoting the sports and games that the management of these federations and associations is taken over by a Board established by the Government for that purpose.

Hence this Bill.

NEW DELHI;

ARJUN SETHI.

The 3rd August, 1974.

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for establishment of the Sports and Games Board. Clause 8 provides for payment of salary and allowances to the Secretary and other whole-time members of the Board. Clause 9 specifies the functions of the Board. An estimated annual expenditure of about rupees one crore is, therefore, likely to be involved from the Consolidated Fund of India towards meeting the salaries and allowances of members and employees of the Board and other administrative expense, as also towards promotion of measures for development of sports and games. The above expenditure has to be met from out of the Sports and Games Fund which will mainly consist of grants, etc. made to the Board by the Central Government.

A non-recurring expenditure of about rupees ten lakhs is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Act. The rules which may be made will relate to matters of procedure or detail. There is also a provision for laying the rules before Parliament.

The delegation of legislative power is, therefore, of a normal nature.

BILL No. 102 OF 1974

A Bill to regulate pensions to pensioners of Central Government.

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:--

Short
title,
extent
and com-
mence-
ment.

1. (1) This Act may be called the Pensions (Regulation) Act, 1974.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force from the date from which the Central Government accepts and gives effect to the recommendations of the Third Pay Commission.

Defini-
tions.

2. In this Act, unless the context otherwise requires,--

(a) "pensioners" means all Central Government pensioner irrespective of their date of retirement;

(b) "Principle of Parity" means that the pensioners shall be brought on to the corresponding scale of pay of the existing Central Government employees and pensions fixed on the revised scale of pay and emoluments fixed for the existing Central Government employees.

3. Whenever the question of revision of pay of serving Central Government employees is undertaken when warranted by rise in the cost of living index or otherwise, the question of review and revision of pensions shall also simultaneously be undertaken by the agency entrusted with the task of revision of pay of the serving Central Government employees.

Simultaneous revision of pay and pensions.

4. (1) A Pension Revision Committee consisting of members of Parliament with a representative of pensioners co-opted to such committee shall be constituted by the Central Government whenever the constitution of such a committee is warranted by the rise in the cost of living index or otherwise and this committee shall look into the question of review and revision of pensions based on the 'Principle of Parity' taking into consideration the recommendations made under section 3 by the agency referred to therein.

Review of pensions by the Pension Revision Committee.

(2) In respect of pensions, the recommendations made by the Pension Revision Committee shall have effect.

5. Pension shall be deemed as a RIGHT of the pensioners.

Pension as a right.

6. The appropriate authority may, with the consent of the holder of pension, order part of the pension or grant of money to be commuted to the pensioners for a lump sum based on the life expectancy of ten years after commutation:

Commutation of pensions.

Provided that in case the holder of such commuted pension survives the aforesaid life expectancy of ten years, full pension shall be granted to him from the date from which he survives the life expectancy of ten years.

7. The pension of a pensioner shall be exempted from seizure, attachment or sequestration by any court or authority.

Exemption of pensions from seizure, attachment, etc.

8. Central Government shall grant the concessions such as Free Medical Aid to pensioners and their families, educational concessions to the children of the pensioner, long term loans on low interest to pensioners for construction or purchase of houses as are granted to the serving Central Government employees.

Grant of concessions to pensioners.

9. All the provisions of the Civil Service Regulations which are repugnant to the provisions of this Act shall be deemed as annulled and inoperative in so far as such provisions relate to the regulation of pensions of Central Government employees.

Civil Service Regulations repugnant to the Act.

10. The Pensions Act, 1871 is hereby repealed.

Repeal of Act XXIII of 1871.

STATEMENT OF OBJECTS AND REASONS

The fixation of quantum of pension of retired Central Government employees is still governed and regulated by the out-dated and out-moded Pensions Act of 1871.

This Bill seeks to do justice to the pensioners of the Central Government by instituting the principle of parity with the employees in service.

There are at present about 8 million Central Government pensioners.

In view of the fact of the increase in cost of living it is highly essential to increase the pension also.

The Pay Commissions are evading the question with the plea that the question of pension is not an issue under reference.

Hence in the interest of justice it is essential to enact this Bill.

NEW DELHI;

DINEN BHATTACHARYA.

The 10th August, 1974.

FINANCIAL MEMORANDUM

The Bill (clauses 4 and 8), if enacted, is likely to involve a recurring expenditure of about rupees one crore from the Consolidated Fund of India. Increase in Government expenditure by way of administration and inspection charges is very negligible.

No non-recurring expenditure is likely to be involved.

BILL No. 99 OF 1974

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

- | | |
|---------------------------|--|
| Short title. | 1. This Act may be called the Constitution (Amendment) Act, 1974. |
| Amendment of Article 324. | 2. In article 324 of the Constitution,—
<div style="margin-left: 40px;">(i) for clauses (2) and (3), the following clauses shall be substituted, namely:—
<div style="margin-left: 40px;">“(2) The Election Commission shall consist of the Chief Election Commissioner, who shall act as the Chairman of the Election Commission, and two Election Commissioners.</div><div style="margin-left: 40px;">(3) Every member of the Election Commission shall be appointed by the President after consultation with the Chief Justice of India and the leader of the opposition in Lok Sabha or a member of Lok Sabha elected by the opposition for that purpose:</div><div style="margin-left: 40px;">Provided that the appointment of every member of the Election Commission shall be subject to the approval of both the Houses of Parliament.</div></div> |

(3A) Every member of the Election Commission shall hold office until he attains the age of sixty-five years:

Provided that he may be removed from his office only in like manner and on the like grounds as a Judge of the Supreme Court.

(3B) The senior-most member of the Election Commission shall be the Chief Election Commissioner.”;

(ii) for cause (5), the following clauses shall be substituted, namely:—

“(5) The salary and other conditions of service of every member of the Election Commission and the salary, tenure of office and other conditions of service of every Regional Commissioner shall be such as may be determined by Parliament by law:

Provided that neither the salary of a member of Election Commission nor his rights in respect of allowances, leave of absence, pension, etc. shall be varied to his disadvantage after his appointment:

Provided further that a Regional Commissioner shall not be removed from office except on the recommendation of the Chief Election Commissioner.

(5A) A member of the Election Commission shall not be eligible to hold any office either under the Government of India or under the Government of any State after he has ceased to hold his office.”.

STATEMENT OF OBJECTS AND REASONS

The object of this proposed constitutional amendment is to ensure the independence and impartiality of the Election Commission. Without an independent and impartial Election Commission, there can be no fair election and, therefore, no democracy. Under the present constitutional set up, there are no safeguards to enable the Election Commission to function without fear and favour of the Government. The Government has been given an unlimited and uncanalized power in the appointment of the Chief Election Commissioner and has also a discretion in deciding the strength of the Election Commission.

The election is a process through which political parties seek power in a democratic set up and it is, therefore, a subject which directly concerns political parties. Yet, except the ruling party, other political parties have no say in the appointment and conduct of the Election Commission and thus in turn it has resulted in bringing the Election Commission under the undue influence of the party in power in the absence of constitutional safeguards to protect the independence of the Election Commission.

Furthermore, although the Constitution has provided for an Election Commission consisting of more than one member, it has always been one-man Commission. There has also developed an unhealthy practice of accommodating the retired Chief Election Commissioner. With no constitutional provisions insulating the Election Commission from undue influence from the Government, and the Government favouring the Chief Election Commissioner with attractive jobs after retirement, a cloud looms over the impartiality and the independence of the Election Commission undermining the faith in the fairness of the election process.

Therefore, the amendment aims to provide safeguards against any undue influence on the Election Commission by the Government. The safeguards included in the amendment are similar to those included by the fathers of the Constitution to maintain the impartiality and independence of other vital organs such as the Comptroller and Auditor-General of India, Union and State Public Service Commissions and the judiciary and which are essential for the effective functioning of the democracy. The participation of the Chief Justice of India and the members of the opposition in the appointment of the members of the Election Commission and the approval thereof by Parliament is proposed to ensure as impartial a method as possible, with as wide a consensus as practicable to generate faith in the impartiality of the choice of members to this august body.

NEW DELHI;
The 14th July, 1974.

ATAL BIHARI VAJPAYEE

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to provide for a three-member Election Commission. The proposed increase in the membership of the Election Commission is likely to involve recurring expenditure of about rupees two lakhs from the Consolidated Fund of India in the shape of emoluments to be paid to the Chief Election Commissioner and other Election Commissioners and their personal staff.

No non-recurring expenditure is likely to be involved.

S. L. SHAKDHER,
Secretary-General.

